

# Exhibit 7

COPY

1

1

2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----x

5 MICHAEL RAKEMAN, BRIAN SCHIELE, LUIS DELGADO,

6 ROBERT TOLLIN, WILLIAM MCCUTCHAN, JOHN NELSON

7 FENRICH and KEVIN BLANEY,

8 Plaintiffs,

9 Civil Index No:  
10 16CV00453 (JFB) (GRB)

- against -

11 MLD MORTGAGE INC. and LAWRENCE DEAR,

12 Defendants.

13 -----x

14 129 Third Street  
15 Mineola, New York

16 April 15, 2019  
17 10:06 a.m.

18 Deposition of Plaintiff,

19 MICHAEL RAKEMAN, before Diana  
20 Mitchell, a Notary Public of the  
21 State of New York.

22

23

24 Rich Moffett Court Reporting, Inc.  
25 114 Old Country Road, Suite 630  
Mineola, New York 11501  
516-280-4664

1

2

2 A P P E A R A N C E S :

3 NEIL H. GREENBERG & ASSOCIATES, P.C.

4 Attorney for Plaintiff

5 4242 Merrick Road

6 Massapequa, New York 11758

7 BY: JUSTIN REILLY, ESQ.

8

9

10

11 THE LAW OFFICE OF RAYMOND NARDO

12 Attorney for Defendants

13 129 Third Street

14 Mineola, New York 11501

15 BY: RAYMOND NARDO, ESQ.

16

17

18

19 ALSO PRESENT:

20 BRIAN SCHIELE

21 LUIS DELGADO

22 WILLIAM MCCUTCCHAN

23

24

25

1

3

2

3 IT IS HEREBY STIPULATED AND  
4 AGREED by and between the attorneys  
5 for the respective parties herein,  
6 that the filing, sealing and  
7 certification of the within  
8 deposition be waived.

9

10 IT IS FURTHER STIPULATED AND  
11 AGREED that all objections, except  
12 as to the form of the question,  
13 shall be reserved to the time of  
the trial.

14

15 IT IS FURTHER STIPULATED AND  
16 AGREED that the within deposition  
17 may be sworn to and signed before  
18 any officer authorized to  
19 administer an oath with the same  
20 force and effect as if signed and  
sworn to before the Court.

21

22

- 000 -

23

24

25

1

4

2       M I C H A E L       R A K E M A N ,  
3       called as a witness, having been duly  
4       sworn by a Notary Public, was examined  
5       and testified as follows:

6

\*                           \*

7       EXAMINATION BY

8       MR. NARDO:

9           Q       Please state your full name  
10      for the record.

11          A       My name is Michael Rakeman.

12          Q       What is your address?

13          A       I live at 56 Dogwood Lane,  
14      Rockville Centre, New York 11570.

15          Q       Good morning, Mr. Rakeman.

16          A       Good morning.

17          Q       This is a deposition. I am  
18      going to ask you a series of questions  
19      which you must answer. If you don't know  
20      an answer you can simply say that you  
21      don't know. If you don't understand a  
22      question, let me know, I'll do the best I  
23      can to rephrase it.

24                           And at the end of the process  
25      there will be a transcript generated by

1

5

2 the court reporter here taking down my  
3 questions and your answers, so it's best  
4 if you don't speak when I'm speaking, and  
5 I'll try not to speak when you're  
6 speaking for the sake of the transcript.  
7 Do you understand that?

8 A I understand.

9 Q Have you ever been deposed  
10 before?

11 A Yes.

12 Q How many times?

13 A Once.

14 Q What was that in connection  
15 with?

16 A A car accident.

17 Q How long ago?

18 A Was the accident or the  
19 deposition?

20 Q The deposition.

21 A Approximately two years.

22 Q Were you a party to that  
23 case?

24 A I was the defendant.

25 Q Other than that case, have

1

6

2 you ever been deposed before?

3 A No.

4 Q Other than that case and this  
5 current case, have you ever been a  
6 plaintiff or defendant in any lawsuit?

7 A Yes.

8 Q How many?

9 A Oh, two, I believe.

10 Q I'd like to discuss those.

11 Is it easier to discuss the  
12 most recent one or the first one?

13 A They're pretty close to the  
14 same time, so it doesn't matter.

15 Q So tell me what those  
16 lawsuits were.

17 A Well, one was MLD sued me  
18 over past due marketing invoices. What  
19 they didn't realize was that there was  
20 marketing invoices were for marketing  
21 that ran after I was fired, and it was  
22 dismissed rather quickly.

23 Q Do you know in what year that  
24 case began?

25 A 2018.

1

7

2 Q Do you know in what court it  
3 was?

4 A Somewhere in New Jersey, I  
5 believe.

6 Q Who represented you in that  
7 lawsuit?

8 A Judith, I believe, it's  
9 R-O-D-D-E-N.

10 Q And was she with a law firm  
11 or was she on her own?

12 A She's with a law firm. Off  
13 the top of my head I don't recall the  
14 name.

15 Q What was the other case that  
16 you were a party to?

17 A The other was us or me and  
18 some other former employees suing Contour  
19 Mortgage.

20 Q Contour is C-O-N-T-O-U-R?

21 A Correct.

22 Q We do that for the benefit of  
23 the court reporter.

24 When was that case filed, if  
25 you know?

1

8

2 A I believe that was filed in  
3 either late '15 or early '16.

4 Q Who was your counsel for  
5 that?

6 A Same one that I have here.

7 Q That's Neil Greenberg's  
8 office?

9 A Neil Greenberg and his  
10 associates.

11 Q Did Justin Reilly represent  
12 you in that case?

13 A Yes, I believe both Justin  
14 and Neil worked on the case.

15 Q And tell me about Contour  
16 Mortgage. When did you working there?

17 A I started working there in  
18 2009 or '10, I believe, and worked up  
19 there right until I started for MLD, so I  
20 believe that was late 2013.

21 Q You left Contour to go to  
22 MLD?

23 A Correct.

24 Q We'll discuss your duties  
25 later in the deposition, but am I correct

1

9

2       in saying that your duties at Contour  
3       Mortgage were strictly the same as your  
4       duties at MLD?

5           A       I would say that they were  
6       similar.

7           Q       How were they different?

8           A       There was not really much of  
9       a difference, other than that the two  
10      banks had some different products that  
11      they offered.

12          Q       You know the difference  
13      between plaintiff and defendant?

14          A       Yes.

15          Q       Do you know who else was a  
16      plaintiff in the Contour Mortgage case  
17      along with you?

18          A       Brian Schiele. I'm not sure  
19      who else was in that one.

20          Q       What is your recollection as  
21      to how many plaintiffs there were in that  
22      case?

23          A       Oh, I want to say maybe four  
24      or five, if I can remember.

25          Q       What was your job title at

1

10

2 Contour Mortgage?

3 A Mortgage loan originator.

4 Q Were all the plaintiffs in  
5 that case against Contour Mortgage loan  
6 originators?

7 A I don't believe so.

8 Q Do you know how many were?

9 A I think -- I think two.

10 Q That would have been you and  
11 Mr. Schiele?

12 A Yes.

13 Q Did Mr. Schiele go to MLD at  
14 the same time you did?

15 A Yes.

16 Q Did anyone, other than  
17 yourself and Mr. Schiele, go to MLD at  
18 the same time you did?

19 A Like, other employees?

20 Q Right. Yes.

21 A They were opening up a branch  
22 in the East Meadow location at that time,  
23 and there was kind of a parting of ways  
24 between Contour employees and those that  
25 went to MLD and those that stayed with

1

11

2 Contour. So there was a handful of  
3 people that started around the same time  
4 in MLD that we did.

5 Q So two of those people were  
6 yourself and Mr. Schiele, correct?

7 A Yes.

8 Q Do you remember the names of  
9 any other people that started at MLD with  
10 you and Mr. Schiele?

11 A That started with us as in,  
12 like, at the same time or with us as in  
13 they worked with us?

14 Q Well, let's start with at the  
15 same time.

16 A By the "same time," are you  
17 saying the same day?

18 Q Well, let's say within two  
19 weeks.

20 A Within two weeks, I mean, it  
21 was probably, I could say with more  
22 confidence within a month or so.

23 Q Okay. That's fine.

24 A There was a number of people  
25 that -- who I knew their names that were

1

12

2 Contour employees that moved over to MLD  
3 where you have, let's see, Ryan Veracka,  
4 John Veracka, Michael Brooks, Scott  
5 Schraeger, Denise Veracka, Barbara  
6 Richards, Samantha Dougworth, Samantha  
7 Kornhaber, I believe.

8 Q Were any of those employees  
9 you just mentioned mortgage loan  
10 originators?

11 A Ryan Veracka.

12 Q Did you and Mr. Schiele start  
13 at MLD on the same day?

14 A As each other?

15 Q Yes.

16 A Probably. I mean, depending  
17 on when the paperwork actually went  
18 through, whether it's, you know, if we go  
19 and check the records. If it's the exact  
20 same day I can't say that.

21 Q Did Mr. Ryan Veracka start at  
22 or about the same time?

23 A Define "at or about."

24 Q Did Mr. Ryan Veracka start as  
25 a mortgage loan originator at MLD within

1

13

2 a week of you and Mr. Schiele?

3 A I can't say that it was  
4 within a week. I don't know.

5 Q Did Mr. Schiele know that you  
6 were going to MLD while you were working  
7 at Contour Mortgage?

8 A Did Mr. Schiele know?

9 Q Yes.

10 MR. REILLY: Objection to  
11 form.

12 Go ahead, you can answer.

13 A Oh, both Mr. Schiele and  
14 myself were working in tandem at that  
15 time, and we had a meeting with the owner  
16 of Contour Mortgage and explained to him  
17 that we were going to become employees of  
18 MLD, at which time we discussed, you  
19 know, just closing out the -- the  
20 existing loans that we had and, you know,  
21 having the most respectful departure.

22 Q So is it fair to say that you  
23 and Mr. Schiele decided to leave Contour  
24 Mortgage at or around the same time?

25 A Yes.

1

14

2 Q And you and Mr. Schiele had  
3 conversations with each other about  
4 leaving Contour Mortgage for MLD before  
5 this meeting you testified about?

6 MR. REILLY: Objection to  
7 form.

8 You can answer.

9 A Okay.

10 MR. REILLY: I'm just  
11 objecting. I'm not going to tell  
12 you not to answer.

13 A Yes. Correct.

14 Q For what period of time did  
15 you have conversations with Mr. Schiele  
16 about leaving Contour Mortgage before you  
17 had this meeting?

18 A A week or two, I guess. I  
19 don't know.

20 Q Did you have conversations  
21 with any mortgage loan originator, other  
22 than Mr. Schiele, about leaving Contour  
23 Mortgage before you had this meeting  
24 where you advised Contour Mortgage that  
25 you were leaving?

1

15

2 A I -- I don't recall that.

3 Q Who did you meet with when  
4 you and Mr. Schiele advised this person  
5 that you would be leaving Contour  
6 Mortgage?

7 A You mean who was the owner of  
8 Contour?

9 Q Or the person you met, yes.

10 A That's Richard Pregiato.

11 Q Do you know when that meeting  
12 was?

13 A I do not.

14 Q Do you know when it was in  
15 relation to when you left Contour?

16 A Probably within a matter of  
17 weeks.

18 Q Did the meeting end  
19 cordially?

20 A Yes.

21 Q Did you continue to perform  
22 your duties for Contour within that one-  
23 or two-week period?

24 A Yes.

25 Q The case that you brought

1

16

2 against Contour Mortgage eventually  
3 resolved, correct?

4 A Correct.

5 Q Do you know when it resolved?

6 A I want to say that was the  
7 early part of 2018, late 2017. I'm not  
8 positive on that answer, though.

9 Q That's fine. That's fine.

10 Is it fair to say that you  
11 were working at MLD at the time that the  
12 Contour case resolved?

13 A No, I was not.

14 Q Where were you working when  
15 the Contour case resolved?

16 A Intercontinental Capital  
17 Group.

18 Q So you had left MLD at the  
19 time that the Contour case resolved?

20 A I was fired from MLD.

21 Q And MLD closed its shop there  
22 in East Meadow, correct?

23 A Not -- they eventually closed  
24 it, but when I was let go, it was still  
25 open.

1

17

2 MR. REILLY: Objection to  
3 form. Last question.

4 Q Is it fair to say that in  
5 your lawsuit with Contour you made  
6 similar allegations to which you are  
7 making in the lawsuit against MLD?

8 A Similar, yes.

9 Q At the time you filed the  
10 case against Contour were you still  
11 working at MLD?

12 A No.

13 Q So at the time you filed a  
14 case against Contour had your employment  
15 with MLD ceased?

16 A Yes.

17 Q What is your educational  
18 background after high school?

19 A I got a degree from Geneseo  
20 State University.

21 Q In what year?

22 A Graduated in 2002.

23 Q Did you go for any  
24 postgraduate formal education after  
25 getting a degree from SUNY Geneseo?

1

18

2 A I did not.

3 Q What was your first job in  
4 the mortgage industry?

5 A Ameriquest Mortgage Company.

6 Q Can you spell that?

7 Oh, Ameriquest?

8 A Yes.

9 Q When did you work for them?

10 A 2002 'till 2006, I believe.

11 That's when they closed.

12 Q What was your position there?

13 A I was -- they had a different  
14 title for it back then, but I believe it  
15 was loan originator or loan officer, and  
16 at the time that they closed I had been  
17 promoted to branch manager.

18 Q Did Ameriquest pay a salary  
19 or commissions?

20 A Yes.

21 Q When you were a branch  
22 manager, how did your pay structure  
23 differ?

24 A When I was a loan officer I  
25 was paid based on the loans that I closed

1

19

2 solely. As a branch manager I was unable  
3 to originate loans myself, and I was paid  
4 based on the production of the loan  
5 officers at the branch.

6 Q Why did you leave Ameriquest?

7 A They were one of the first  
8 lenders that closed during the start of  
9 the financial crisis.

10 Q Where did you work after  
11 Ameriquest?

12 A A place called Concord.

13 Let's make it a little more  
14 difficult for everybody.

15 Concord Mortgage.

16 Q Are they still open?

17 A They are not.

18 Q When did you work at Concord  
19 Mortgage?

20 A 2006 through 2008.

21 Q What was your title with  
22 Concord?

23 A Mortgage loan officer,  
24 mortgage loan originator.

25 Q Why did you stop working at

1

20

2 Concord?

3 A Better opportunity.

4 Q Where was that better  
5 opportunity?

6 A It was for a short period of  
7 time, Precision Financial.

8 Q Is Concord still open, to  
9 your knowledge?

10 A Concord, no.

11 Q I just want to go back.

12 Q Where was Ameriquest's  
13 office?

14 A The one that I worked in?

15 Q Yes.

16 A For part of the time it was  
17 Syosset, New York, and at the time that  
18 they closed I was working out of their  
19 Babylon, New York office.

20 Q Where was Concord's office?

21 A Melville.

22 Q Where was Precision's office?

23 A Syosset.

24 Q What was your job title with  
25 Precision?

1

21

2 A Mortgage loan originator.

3 Q How long did you work for  
4 them?

5 A Just about a year, maybe a  
6 little less than a year.

7 Q Were your duties similar at  
8 Precision, Concord and Ameriquest, other  
9 than when you were branch manager at  
10 Ameriquest?

11 A Precision and Concord, they  
12 were pretty similar. Ameriquest had a  
13 much different model, much different  
14 structure, much different way of doing  
15 business. So although we were closing  
16 mortgage loan transactions, what you did  
17 on a day-to-day basis was a lot  
18 different.

19 Q Where did you work after  
20 Precision Financial?

21 A That's when we went to  
22 Contour Mortgage.

23 Q And then from Contour you  
24 went to MLD?

25 A Yes.

1

22

2

Q Where did you go after MLD?

3

A Intercontinental Capital

4

Group.

5

Q Is that where you are now?

6

A Yes.

7

Q What is your position there?

8

A Intercontinental Capital

9

Group is the producing branch manager.

10

Q Do you consider yourself to

11 be educated?

12

A Yes.

13

Q Do you consider yourself to  
14 be sophisticated?

15

A Somewhat.

16

Q Would you say that you're  
17 sophisticated in business?

18

MR. REILLY: Just objection  
19 to form.

20

A Somewhat.

21

Q Would you say you're  
22 sophisticated when it comes to the  
23 banking industry?

24

A I would say I have a strong  
25 understanding of mortgage loan

1

23

2 origination.

3 Q Do you have a good reputation  
4 in the mortgage industry?

5 A Yes.

6 Q Do you consider yourself to  
7 be a truthful person?

8 A Yes.

9 Q An honorable person?

10 A Yes.

11 Q Am I correct in saying that  
12 your reputation for truthfulness is  
13 important to you?

14 A Yes.

15 Q And your reputation for being  
16 honorable is important to you?

17 A Yes.

18 Q Isn't it true that in the  
19 mortgage industry there are some  
20 dishonorable people?

21 A I wouldn't answer that  
22 question.

23 Q Okay.

24 Have you ever read stories  
25 about mortgage loan originators or

1

24

2 closing attorneys going to jail?

3 A I have. I wouldn't put that  
4 strictly to mortgage people as you did in  
5 your line of questioning, because I think  
6 it happens in all facets of business, so  
7 I wouldn't want to just exclusively nail  
8 down that -- that sector.

9 Q Right, but with your  
10 expertise in that sector you have seen  
11 some people act dishonorably on occasion?

12 MR. REILLY: Objection to  
13 form.

14 A Have I seen?

15 Q Right.

16 A I've not seen it myself.

17 Q Have you heard of it?

18 A Yes, we've all read about it.

19 Q And some bank attorneys have  
20 gone to jail through this mortgage  
21 industry, correct?

22 MR. REILLY: Objection to  
23 form.

24 Q Have you heard of that?

25 A Yes.

1

25

2 Q Do you consider yourself to  
3 be a man of faith?

4 A Yes.

5 Q What faith do you practice?

6 A Christian.

7 Q Is that part of your  
8 marketing, also?

9 A Can you elaborate?

10 Q Sure.

11 Do you market to a Christian  
12 audience?

13 A Not exclusively.

14 Q But you partially market to a  
15 Christian audience?

16 A Well, a lot of our marketing  
17 is done on various, like, radio stations.  
18 That's one form of it. Some stations  
19 have a higher demographic of Christian  
20 listeners.

21 Q Can you give me an example of  
22 those stations?

23 A 99.1 in New Jersey, 95.1 in  
24 Baltimore. Both of them are -- would  
25 be -- would be considered positive --

1

26

2 positive hits, you know, reinforcing,  
3 uplifting, safe for the whole family.

4 Q Are you familiar with what is  
5 broadcast on 99.1 in New Jersey?

6 A Yes.

7 Q Is it music or talk?

8 A Music.

9 Q Is it Christian-based music?

10 A It would be deemed Christian  
11 contemporary.

12 Q Have you ever listened to  
13 that music?

14 A Yes.

15 Q Are you familiar with 96.7  
16 FM?

17 A Yes.

18 Q Is that also Christian  
19 contemporary?

20 A Yes.

21 Q Would that be the same to  
22 99.1 in New Jersey?

23 A Similar.

24 Q Do you advertise on 96.7 FM  
25 here on Long Island?

27

1                   A               No.

2                   Q               Is 95.1 also Christian  
3                                  contemporary music?

4                   A               Yes.

5                   Q               Other than those radio  
6                                  stations, is there any other marketing  
7                                  you have performed to reach a Christian  
8                                  base?

9                   A               Outside of radio we weren't  
10                                  doing anything that was deemed solely  
11                                  nonsecular.

12                   Q               Did you ever meet with any  
13                                  church groups or anything like that?

14                   A               In the past we have done some  
15                                  seminars and things like that at churches  
16                                  through, you know, pastors or church  
17                                  leaders that we knew or got to know.

18                   Q               Let me just back up for a  
19                                  second.

20                                  So did the marketing at 99.1  
21                                  and 95.1 FM occur while you worked at  
22                                  MLD?

23                   A               Yes.

24                   Q               Did the meeting with church

1

28

2 groups, if that's the right phrase, occur  
3 while working at MLD?

4 A I don't recall if the -- some  
5 of the church seminars were done at that  
6 time or not.

7 Q Other than the radio  
8 marketing and the church seminars, was  
9 there any other way in which you tried to  
10 reach a Christian audience for your  
11 products?

12 A Not that I am aware of, no.

13 Q Can you tell me what a church  
14 seminar is?

15 A It would be just like any  
16 other type of financial seminar, except  
17 this one happened to be at a church  
18 'cause it was the -- the pastor that kind  
19 of opened the doors for the congregation.

20 Q Did you ever do any of these  
21 on Long Island?

22 A Yes, we did one on Long  
23 Island, but I am pretty sure that was  
24 prior to MLD.

25 Q Can you recall any other

1

29

2 church seminar you did while you were  
3 working at MLD?

4 A Off the top of my head, I  
5 cannot.

6 Q When you say you cannot, you  
7 can't recall a specific one?

8 A Correct.

9 Q Do you think you did any  
10 church seminars, even though you can't  
11 recall a specific one, while you worked  
12 at MLD?

13 A I don't know.

14 Q When you have done church  
15 seminars, what would be the location in  
16 or near the church that you would meet?  
17 For instance, was this on church  
18 property?

19 A Typically, yes, so it  
20 wouldn't be in the sanctuary. It would  
21 be, you know, in, like, a conference room  
22 or a basement or something like that that  
23 they had.

24 Q What marketing steps did you  
25 take at MLD to reach any type of

1

30

2 audience, other than the Christian radio  
3 station and church seminars?

4 A Well, secular radio we would  
5 do stuff where, you know, direct mail.  
6 If we were advertising for, like, reverse  
7 mortgage or something like that, you  
8 know, we would do, you know, mail or  
9 different radio campaigns that might  
10 cater to listeners that are 60 years and  
11 above in age.

12 Q While you were working at  
13 MLD, what secular radio stations did you  
14 advertise on?

15 A I believe on Long Island  
16 102.3 we did for a bit. There was a  
17 country station, I believe, in New Jersey  
18 that we did something with and some  
19 various news stations.

20 Q Do you remember the news  
21 stations?

22 A I do not off the top of my  
23 head. Sometimes we would do stuff where  
24 you get -- you buy remnant inventory. I  
25 don't know if you're familiar with what

1

31

2           that is. Unsold inventory for a cheaper  
3           price, so you didn't always know where it  
4           was getting placed.

5           Q         You would buy that through a  
6           broker?

7           A         Yeah, media buyer, so...

8           Q         Who would pay for these ads  
9           while you worked at MLD?

10          A         Well, it's a -- MLD typically  
11          would pay from their corporate account  
12          either with a check or credit card, and  
13          then it -- they would charge us back on  
14          our ongoing profit and loss statement.

15          Q         When you say "they would  
16          charge us back," is that you or is that  
17          the whole group?

18          A         Brian and I.

19          Q         Am I correct in saying that  
20          indirectly you and Brian were paying for  
21          the ads?

22          A         Yes.

23          Q         Now, that's the same for all  
24          the radio ads that would have run while  
25          you were at MLD, correct?

1

32

2 A Yes.

3 Q So when you were charged back  
4 for the ads, do you know how that would  
5 appear on your profit and loss statement?

6 A Like, what it would be  
7 called?

8 Q Yes, the line item.

9 A Radio advertising might be  
10 it. It might mention the stations  
11 directly. It really depends upon how the  
12 bill came over.

13 Q Were you and Brian referred  
14 to as anything, was there a name for your  
15 team?

16 MR. REILLY: Objection to  
17 form.

18 A No.

19 Q As you sit here today, do you  
20 know how much you and Brian spent on  
21 radio advertising while you were at MLD?

22 A No, I don't know.

23 Q Do you know how much per  
24 month?

25 A It would vary. I would say

1

33

2 could have been around 100,000 a month or  
3 so. I don't know I'll say with -- with a  
4 hundred percent certainty, because I  
5 don't remember.

6 Q Okay. That's understood.

7 Did you ever do television  
8 advertising when you were at MLD?

9 A I don't recall if we did.

10 Q Are you able to say, or give  
11 a range, for how often the advertisements  
12 ran, radio advertisements, while you were  
13 at MLD?

14 A They would probably run on a  
15 given station anywhere, depending on the  
16 day of the week and what was going on at  
17 the station, anywhere from five to ten  
18 times a day. It would vary based on the  
19 different contracts and whatnot.

20 Q To the extent you had  
21 expenses for church seminars, would that  
22 be billed and paid by you and Brian in  
23 the same manner while you were at MLD?

24 A I don't know if we had any  
25 specific church seminars that we did when

1

34

2 we were at MLD, so I wouldn't be able to  
3 say.

4 Q Other than the radio ads, can  
5 you think of any other type of marketing  
6 you did at MLD where MLD would lay out  
7 the money and then you would pay back  
8 MLD?

9 A There may have been some  
10 digital, like, SEO stuff, maybe some  
11 direct mail and maybe some -- we may have  
12 done some social media, too. Again, I  
13 don't recall everything, but if there was  
14 going to be something, those would be the  
15 topics they'd fall under.

16 Q Well, let's go back to the  
17 radio for a second.

18 Who would determine the  
19 budget for you and Brian to allocate to  
20 radio advertisers?

21 A As in who would, like, be  
22 negotiating what to spend on a particular  
23 station or the overall amount that we  
24 could spend?

25 Q All right. Let's take both.

1

35

2 Let's start with the overall amount.

3 A The overall amount would  
4 correlate back to production. You know,  
5 we had to make sure that we had revenues  
6 coming in to be able to cover the  
7 expense.

8 Q So am I correct that you and  
9 Brian would meet, look over the  
10 production numbers and then decide how  
11 much to spend on marketing?

12 MR. REILLY: Objection to  
13 form.

14 A Yeah, more or less.

15 Q And part of that marketing  
16 was radio?

17 A Correct.

18 Q And then you and Brian would  
19 discuss how much in a certain period to  
20 spend on radio marketing; is that right?

21 A Yes.

22 Q And then how would you go  
23 about putting that in motion?

24 A Well, whether it was through  
25 a station direct or through a media

1

36

2 buyer, you know, we would collaborate,  
3 get some ideas, see what sort of  
4 frequency that we were getting and how  
5 often it would run, size of the audience.  
6 Some of the stations we had a prior  
7 history with, meaning that we had  
8 advertised with them in the past. Some  
9 of it were brand new campaigns, so you're  
10 kind of, you know, putting your toe in  
11 the water, so to speak, and, you know,  
12 you monitor what's coming back from the  
13 particular station, what closings you  
14 have from the station, and just like  
15 anything else, compare it to what you're  
16 spending and make sure that they're --  
17 that it's a smart business decision.

18 Q While you were at MLD, what  
19 was the radio station that you spent the  
20 most money advertising on?

21 A I would probably say that it  
22 was 99.1 in New Jersey just because of  
23 the longevity and frequency that we ran.

24 Q Where was the office located  
25 when you worked at MLD?

1

37

2 A East Meadow, New York.

3 Q It was there for the entire  
4 duration that you worked at MLD?

5 A Correct.

6 Q Did you ever report to any  
7 other offices for MLD?

8 A I did not.

9 Q What were the hours of that  
10 office?

11 A Was the office opened?

12 Q Yes.

13 A So we -- you could get in  
14 there as early as 7 in the morning, maybe  
15 sometimes even a little earlier and, you  
16 know, night people would -- there were  
17 nights, 10:00, 10:30. It really, you  
18 know, if -- if you were able to be  
19 productive and needed to be in the office  
20 for whatever reason you had access.

21 Q Did you have keys to the  
22 office?

23 A I believe I did, yes.

24 Q So if no one was in the  
25 office were you able to get in?

1

38

2 A Yes.

3 Q Was there an alarm to the  
4 office?

5 A Yeah, I believe there was a  
6 code from the outside of the building  
7 that we could hit to buzz in and, you  
8 know, make sure, like, the alarm was off.  
9 I'm not a hundred percent sure on that,  
10 though.

11 Q Were there times that you  
12 were in the office alone?

13 A Yes.

14 Q Were there times that only  
15 you and Mr. Schiele were in the office?

16 A Yes.

17 Q What times of day or night  
18 would that be?

19 A If it was just he and I it  
20 was typically during a snowstorm when no  
21 one else would come in to work, weekends  
22 where a lot of people, wouldn't be a lot  
23 of people, but some people didn't report  
24 in or later in the evening.

25 Q How often were you at MLD on

1

39

2 either Saturday or Sunday or both?

3 A A decent amount. I would say  
4 a few times a month.

5 Q Would you average that to be  
6 twice a month?

7 A Yeah, maybe a little more  
8 than that.

9 Q For the occasions you went in  
10 on weekends, how often did you go in on  
11 both Saturday and Sunday?

12 A In the same weekend or in the  
13 same month?

14 Q In the same month.

15 A In the same month there would  
16 be times that I would be there on a  
17 Saturday and a Sunday, yeah, absolutely.

18 But a lot of the -- like, if  
19 I was working on the weekend, a lot of it  
20 I could do, you know, from my phone and,  
21 you know, through e-mail and stuff like  
22 that. I could sell a loan or whatever  
23 from my cell phone as well.

24 Q Did you have any reservations  
25 based on your religion about working on

1

40

2 Sunday for MLD?

3 A Not so long as it didn't  
4 interfere with the family going to  
5 church.

6 Q Did anyone, to your  
7 knowledge, keep track of your time when  
8 you worked at MLD?

9 A No.

10 Q Did you ever keep track of  
11 your time at MLD?

12 A I knew what hours I worked,  
13 yeah.

14 Q Did you ever keep track of it  
15 in writing?

16 A I don't believe I did.

17 Q Were there occasions when the  
18 demands of working as a mortgage loan  
19 originator would take you outside of the  
20 office?

21 A Could you elaborate on that  
22 question?

23 Q Sure.

24 Did you ever work for MLD  
25 when you were not in the office?

1

41

2           A         Would I do -- are you asking  
3           me if I did paperwork or client  
4           interactions, like, from my house, or are  
5           you asking me if I went out on the street  
6           to get business?

7           Q         Let's start with the first  
8           one.

9                      Did you ever do interactions  
10          with or on behalf of clients from your  
11          home or from your car?

12          A         Yes.

13          Q         How often did you interact  
14          with clients or do work on their behalf  
15          from your home?

16          A         Daily.

17          Q         Is that the same with your  
18          car?

19          A         Yeah, I think it would be  
20          more -- my commute was fairly quick to  
21          the office, and I really only went from  
22          my house to the office so I didn't write  
23          e-mails or anything like that from my --  
24          from my car. It's a, you know, 10,  
25          12-minute ride.

1

42

2 Q Was there anything that you  
3 did that pertained to marketing for MLD  
4 that occurred outside the office?

5 A No.

6 Q Did you do any networking?

7 A Not really, no.

8 Q Were you in any networking  
9 groups?

10 A No.

11 Q Did you interact with any  
12 real estate brokers?

13 A No.

14 Q Did you ever get referrals  
15 from real estate brokers?

16 A No.

17 Q Did you interact with anyone  
18 else in the business world for the  
19 purpose of marketing?

20 A Well, we ran advertisements  
21 and we were glued to our desks. When I  
22 wasn't at my desk, I would, you know,  
23 work from my house servicing those same  
24 deals, whether it was through, you know,  
25 reviewing paperwork or anything like

1

43

2 that. We didn't go out to network or get  
3 business. It was strictly consumer  
4 direct advertising and sales.

5 Q So in a workweek for MLD,  
6 what percentage of the time that you  
7 worked for MLD would have been physically  
8 at the office and what percentage would  
9 be at your house or somewhere other than  
10 MLD?

11 MR. REILLY: Objection to  
12 form.

13 A Again, it's tough to really  
14 tell you, but I'll ballpark it at  
15 80 percent in the office.

16 Q Of the other 20 percent, how  
17 much of that was at the house, all of it?

18 A Pretty much all of it, yeah.

19 Q Do you have a home office, so  
20 to speak?

21 A Sort of. A spot that my kids  
22 can't come in.

23 Q All right.

24 Do you have a fax machine at  
25 home?

1

44

2 A Yes, I do.

3 Q Actually, you understand I'm  
4 referring to the time you worked at MLD,  
5 right?

6 A Yeah. Yeah.

7 Q Did you have a copier at  
8 home?

9 A Yes.

10 Q Am I correct in saying that  
11 you would frequently check your e-mails  
12 at home?

13 A Yeah.

14 Q Did you have any other  
15 equipment at home for the purpose of  
16 work, other than fax or copier?

17 A I had a computer, but, you  
18 know, most of this was -- were things  
19 that we had in the house that wasn't,  
20 like, I was -- I got them for the purpose  
21 of working out of my house. You know, if  
22 I needed to use it was there, but mostly  
23 it was, you know, it's sales, so a lot of  
24 it's interacting with the customer or,  
25 you know, reviewing your documents and

1

45

2 things like that that you could really do  
3 from, you know, your home or the office  
4 or whenever.

5 Q I'm going to back up a little  
6 again.

7 What were your duties for  
8 MLD?

9 Before you answer that --

10 A To originate mortgage loans  
11 in compliance with state and federal  
12 regulations.

13 Q -- what states were you there  
14 to originate mortgage loans for MLD?

15 A I believe New York, New  
16 Jersey, Pennsylvania, Connecticut,  
17 California, Maryland, Florida. I have to  
18 go back and check what -- which ones we  
19 interacted with at that time, but that's  
20 kind of collectively between Brian and I.

21 Q Am I correct in saying that  
22 you and Brian worked together as a unit  
23 during your time at MLD?

24 A Yes, for the -- I mean,  
25 there's things that, you know, a time

1

46

2 where he might have a loan that he would  
3 close on and I had very little to no  
4 involvement and vice versa, but we did  
5 collaborate on a regular basis and, you  
6 know, worked, he and I, as a unit, as you  
7 said.

8 Q Did MLD ever generate leads?

9 A I believe that they did. At  
10 what level or, you know, who they went  
11 to, I didn't really get all that.

12 Q Am I correct in saying that  
13 any leads generated by MLD did not go to  
14 you?

15 A Correct.

16 Q To your knowledge, did MLD  
17 leads go to Brian Schiele?

18 A To my knowledge, no, they did  
19 not.

20 Q How would you originate the  
21 mortgage loans?

22 A We would -- there would be  
23 some form of advertising. A customer  
24 would call in and/or e-mail us, you know,  
25 whatever, and say they were interested in

2 our services. We would take their  
3 information from them, put together a  
4 loan proposal, and if all parties agreed  
5 to move forward, we would just follow the  
6 normal steps in processing and closing a  
7 mortgage loan transaction.

8 Q Are these for residential  
9 homes?

10 A Yes. Correct. One- to  
11 four-family residential owned.

12 Q Did you and Brian have a  
13 phone number that was different than  
14 MLD's phone number?

15                   A               Yeah, we had a number that  
16                  would be for our advertising that would  
17                  ring to us so we could monitor the calls  
18                  that came in and it helped us follow --  
19                  figure out which advertising campaign it  
20                  came from.

21 Q When the number would ring to  
22 you, would that ring to your cell phone?

1

48

2 that.

3 Q So when you say your office,  
4 that was a landline in East Meadow?

5 A Correct.

6 Q How often and under what  
7 conditions did you use the call  
8 forwarding?

9 A If there was a situation  
10 where nobody would be able to answer the  
11 phone, otherwise.

12 Q If a person called on a night  
13 or a weekend and nobody was at the office  
14 in East Meadow?

15 A It would go to a voice  
16 mailbox that we had access to check. We  
17 also would get an e-mail record of the  
18 call coming in.

19 Q What e-mail address did that  
20 e-mail record go to?

21 A Myself and Brian's.

22 Q Was that an MLD e-mail  
23 address or was that a generic Gmail or  
24 Hotmail?

25 A No, MLD.

1

49

2 Q If you had the voicemail  
3 capabilities why would you use the call  
4 forwarding?

5 A In case we wanted to take the  
6 call live.

7 Q How often did you do that?

8 A Not very often.

9 Q Am I correct in saying that  
10 you and Brian could not call forward at  
11 the same time?

12 A Yeah, it would have to go  
13 to -- to one or the other, because we had  
14 the ability to check the voicemail that  
15 came in from an outside source, and we  
16 would get the e-mail record that showed  
17 the number that called as well, so if we  
18 wanted to call it back, you had that  
19 capability.

20 Q Was the e-mail record  
21 contemporaneous with the phone call? Did  
22 the e-mail come at the same time as the  
23 phone call?

24 A Yes. Yeah, it was realtime.

25 Q So if you're at home at

1

50

2       8:00 p.m. and an e-mail came in and you  
3       checked the e-mail you could then call  
4       that potential customer back?

5           A        Correct.

6           Q        Would the e-mail give any  
7       information about the customer or would  
8       it just give the phone number?

9           A        It would depend upon what  
10      number they called from, if it was a cell  
11      phone, who their serve -- who they had  
12      their service with, and if it was a  
13      landline if they had a blocked or  
14      anonymous type of name along with it, so  
15      at times you would get the customer's  
16      first and last name with the number and  
17      other times you might just get a number.

18          Q        But the e-mail would not give  
19      any more information than names or phone  
20      numbers, correct?

21          A        That's correct.

22          Q        Were there times when you got  
23      an e-mail like that and you would call  
24      the customer back while you were out of  
25      the office?

1

51

2 A Yeah.

3 Q Am I correct in saying that  
4 you wanted to call the customer back as  
5 close to the time that the customer  
6 called you as possible?

7 A Yes.

8 Q So if you got a call on a  
9 Saturday and you're at home or on  
10 vacation you might call a customer back?

11 A That's correct.

12 Q And you did that?

13 A Yes.

14 MR. REILLY: Objection to  
15 form.

16 Q Did you and Mr. Schiele pool  
17 your income that was derived from these  
18 transactions?

19 A Yes, it was on a combined  
20 P&L, a profit and loss, and we would get  
21 a record of that typically on a  
22 month-to-month basis. That would, you  
23 know, show what we had spent in -- in  
24 bills and other things as well as, you  
25 know, what the revenues were that came in

1

52

2 and what the commissions were supposed to  
3 be.

4 Q And then did you and  
5 Mr. Schiele split the profit from that?

6 A Yes.

7 Q 50/50?

8 A Yes.

9 Q Who generated the profit and  
10 loss, you folks or MLD?

11 A Our supervisors at our branch  
12 level.

13 Q During the time you worked at  
14 MLD who was your supervisor?

15 A There were three, John  
16 Veracka, Mike Brooks and Scott Schraeger.

17 Q In that order?

18 A No, that's just random.

19 Q Do you know what period of  
20 time each one supervised you?

21 A They all equally supervised  
22 us for the duration of our employment  
23 there.

24 Q I see.

25 Now, of those three, let's

1

53

2 start with one at a time.

3 What was John Veracka's  
4 title?

5 A I believe it was either  
6 supervisor or manager or something.

7 Q Was he someone who was on the  
8 East Meadow premises?

9 A Yes.

10 Q What was Michael Brooks'  
11 title?

12 A Probably something similar to  
13 that.

14 Q Was he also on the East  
15 Meadow premises?

16 A Yes.

17 Q What was Scott Schraeger's  
18 title?

19 A Same.

20 Q Was he also on the East  
21 Meadow premises?

22 A Yes.

23 Q So if a customer called and  
24 wanted to secure a mortgage loan, what  
25 steps would you take?

1

54

2           A         Well, you start with a, you  
3           know, initial application where you get  
4           just basic information, you know, name,  
5           address, phone number, and then, you  
6           know, without going through the entire  
7           application, you know, find out what  
8           their goals are. Are they looking to  
9           purchase a home, are they looking to  
10          refinance a home and what they want to do  
11          within that, what their budget is, if  
12          they have equity in the house or how much  
13          they could put down. We would do a  
14          credit check on them, and then from  
15          there, based on what goals they gave us,  
16          we would come back to them with some  
17          potential options and say to, you know,  
18          Hey, you could do X, Y or Z, and if they  
19          liked one better than the other, they  
20          would say, Hey, I want to go with, you  
21          know, this particular route, and then  
22          we'd let them know what the next step in  
23          the process to complete the transaction  
24          would be.

25

Q         How does the customer get the

1

55

2 application from the initial contact with  
3 you?

4 A So we would take down their  
5 information over the phone. Once it came  
6 down to sending out the formal  
7 application, the disclosures, we  
8 typically send them the, you know, UPS or  
9 whatever courier service we were using at  
10 the time.

11 Q So when you say "we," who  
12 specifically would do that in the office?

13 A Well, Brian and I would put  
14 everything together that would spell out  
15 what the customer's goals were and what  
16 they qualified for, what their rate was,  
17 things like that, and disclosures were  
18 generated by our processor, and our  
19 processor would then send them out in the  
20 courier service for us.

21 Q From that phone call would  
22 the person receive an application by  
23 e-mail?

24 A No.

25 So the way that it works in

1

56

2 mortgage lending is we send them what's  
3 called, like, a disclosure application.  
4 So we disclose it, which would be  
5 considered their application, what we're  
6 taking information on the phone.  
7 Although I referred to it as an  
8 application it's a little bit different.  
9 It's more of, like, a getting-to-know-you  
10 kind of thing, for lack of a better term.

11 Q Within an initial phone call,  
12 let's suppose you were in the office and  
13 you received a phone call, would you take  
14 the information or would someone else  
15 take it?

16 A Either I would take it, Brian  
17 would take it or we had, as we started  
18 doing more business, we had -- there was  
19 a call center that would take some of the  
20 initial calls as we would be unable to  
21 service all of them as two people.

22 Q Did you ever go to real  
23 estate closings?

24 A No. Our closing -- the bank  
25 attorney that they used was located in

1

57

2           the East Meadow office, so if a closing  
3       happens to take place in the East Meadow  
4       office, which was few and far between, we  
5       may pop up and say hello, but that would  
6       be about the extent of it.

7           Q       Who was the bank attorney?

8           A       David Makower.

9           Q       How long would an initial  
10      phone call be from a customer who called  
11      in from an advertisement?

12          A       Could be five minutes, it  
13      could be forty-five minutes.

14          Q       Some of those calls you  
15      handled?

16          A       Correct.

17          Q       What percentage of those  
18      calls, would you say, were handled by  
19      someone other than yourself or  
20      Mr. Schiele?

21          A       It changed throughout the --  
22      our tenure at MLD. In the beginning I  
23      would say we were probably handling, you  
24      know, 60, 70 percent of them, and then  
25      towards the end while we got a lot busier

1

58

2           throughout 2015, probably were only  
3           handling about 25 percent of the initial  
4           call.

5           Q         What was occupying your time  
6           in 2015 as you got busier?

7           A         We were closing a lot more  
8           business, so it was just, you know, the  
9           sales, client interaction, you know, just  
10          kind of putting all the pieces together  
11          of a loan transaction, and just if, you  
12          know, if we were closing five loans a  
13          month it would take -- it wouldn't take  
14          us that much time, but we were closing a  
15          lot and had a lot of business at that  
16          point.

17                   So we went from in the  
18          beginning a new employer where we were  
19          being able to service a lot of calls. We  
20          were also getting a new brand established  
21          for ourselves through 2015 where there  
22          was a lot of business coming in, so we  
23          were always spread thin. It was just a  
24          matter of which in -- why, what was the  
25          reason for it, you know.

1

59

2

Q Did the branch office at MLD ever have to hire more employees due to the increase in business brought about by you and Mr. Schiele?

3

A -- that may be a question better for John, Mike or Scott, but possibly.

4

Q Did you ever recommend that the branch hire more people?

5

A I don't believe so.

6

Q Did you have any role in hiring people for that branch?

7

A No.

8

Q Could you recommend a hire?

9

MR. REILLY: Objection to form.

10

A If I -- if I knew someone in the business that was looking for an opportunity, by all means I could always recommend it. It didn't happen, but, you know, I think any job anyone could always make a similar application.

11

Q Did you ever interview anybody who was a potential hire for MLD?

1

60

2 A I did not.

3 Q Did you ever recommend anyone  
4 at MLD to be disciplined up to and  
5 including termination?

6 A No.

7 Q Did you ever terminate  
8 anyone?

9 A No.

10 Q Did you and Mr. Schiele ever  
11 receive an override on anyone else's  
12 sales while you worked at MLD?

13 A We had -- we had a team of  
14 salespeople, and when we did our  
15 advertising, if there was an overflow of  
16 leads that we were unable to handle as  
17 two people and we passed it off to  
18 another salesperson and then closed it we  
19 would receive compensation.

20 Q Are you able to estimate how  
21 often that happened?

22 A There probably would be a few  
23 transactions on a month-to-month basis.

24 Q Did it always go to the same  
25 mortgage loan originator?

1

61

2           A         No.

3           Q         Who were the mortgage loan  
4         originators that helped to close your  
5         overflow of leads?

6           A         There was a group of guys  
7         that we had all known each other for a  
8         number of years that were all working  
9         there, so it was guys that Brian and I  
10        have had a history with and knew and, you  
11        know, trusted with working on the deals  
12        that we pursued.

13          Q         Can you tell me the names of  
14        those people?

15          A         Yeah, most of them would be  
16        the plaintiffs in this case.

17          Q         Do you know how often that  
18        occurred?

19          A         That they would close a  
20        transaction?

21          Q         Yes.

22          A         A few times a month. The  
23        lion's share of the business was closed  
24        between Brian and myself.

25          Q         How did you allocate the

1

62

2 money that the person you were referring  
3 to would receive for the transaction?

4 A Well, every mortgage loan  
5 originator is -- has a contract that they  
6 get paid a certain amount of basis points  
7 upon funding of the loan, and in this  
8 case I believe contractually there were a  
9 certain amount of basis points if there  
10 was a lead that we had given to them that  
11 would be allocated towards us as well.

12 Q So did the mortgage loan  
13 originators that we're talking about here  
14 that you referred to have transactions to  
15 have written contracts with MLD?

16 A Yeah, they should have.

17 Q Did those written contracts  
18 specify the basis points that they would  
19 receive for transactions referred by you  
20 and Mr. Schiele?

21 A I don't believe so.

22 Q So where was that specified?

23 A That was, I believe, on a  
24 branch level. That was just kind of  
25 agreed upon. I think when we -- they

1

63

2 come onboard, that they're, you know,  
3 they were doing their own thing and  
4 originating their own loans, and there  
5 was -- an overflow was something that  
6 wasn't really expected, I guess, but I,  
7 you know, it was -- it would be allocated  
8 to us when we got our monthly  
9 spreadsheet.

10 Q What was the percentage or  
11 number of basis points that were  
12 allocated to you for one of these  
13 referral transactions?

14 A I don't recall the exact  
15 amount.

16 Q How many mortgage loan  
17 originators, approximately, were there at  
18 any given time in the East Meadow office?

19 A There was probably, I want to  
20 say, 40 or 50 maybe.

21 Q That's at one time?

22 A That's in that office.

23 Q Right.

24 A It was a, like, 18,000 square  
25 foot space or something like that.

1

64

2 Q Did you have any supervisory  
3 authority over any of the mortgage loan  
4 officers?

5 A No.

6 Q Did you ever fill out  
7 evaluations for any of the mortgage loan  
8 officers?

9 A No.

10 Q Who supervised the mortgage  
11 loan officers, other than you and  
12 Mr. Schiele?

13 MR. REILLY: Objection to  
14 form.

15 A Well, we didn't supervise  
16 them.

17 Q Right but I'm saying who did?

18 A Oh, John, Mike and Scott.

19 Q Same people that supervised  
20 you?

21 A Correct.

22 Q If a mortgage loan officer  
23 needed to take a vacation, who would the  
24 mortgage loan officer go to?

25 A Typically they would speak

1                   with either John, Mike or Scott. If  
2                   John's wife Denise who is, like, the HR  
3                   rep for the branch, probably would let  
4                   her know as well, you know, make sure  
5                   they had vacation days allocated or -- or  
6                   whatever.  
7

8                   Q         Did anyone ever speak to you  
9                   about that?

10                  A         Well, if it was one of my  
11                  friends they might tell me they're going  
12                  away, but not in a, you know,  
13                  employer/employee sense.

14                  Q         They weren't seeking  
15                  permission from you?

16                  A         Correct. Correct. They were  
17                  not seeking permission.

18                  Q         After you have an initial  
19                  application is it necessary for you again  
20                  to get in contact with the customer?

21                  A         Oh, absolutely.

22                  Q         And is that a call you would  
23                  make to the customer?

24                  A         Yes.

25                  Q         What percentage of the time

1 | P a g e

2 were those calls made from MLD's office  
3 as opposed to when you're out of the  
4 office on your cell phone or somewhere  
5 else?

6 MR. REILLY: Objection.

7 Objection to form.

8                   A               I would. Majority of it was  
9                   done in the MLD office, you know.  
10                  Maybe -- maybe 85 percent of it.

11 Q What would be the nature of  
12 the discussion after the customer has  
13 given you the information for the  
14 application?

15                   A         It could be anything from a  
16                   discussion of, you know, rates and  
17                   closing costs, if a customer chooses to  
18                   escrow their taxes and insurance, how  
19                   much the appraisal will cost, when will  
20                   the appraiser come out there, how quick  
21                   until we get this all buttoned up.

22 You know, there were times  
23 when we could have a loan in process and,  
24 all of a sudden, we order a payoff from  
25 their current servicer and then the

1

67

2 current servicer would call the customer  
3 and try to offer them something lower  
4 than what we can -- could. So it was  
5 ongoing sales, particularly on a  
6 refinance.

7 Q What percentage of your  
8 business while you were at MLD was  
9 refinance?

10 A About 90 to 95 percent. It  
11 was a good low rate market at the time.

12 Q At what point in the process  
13 would you do a credit check on the  
14 customer?

15 A After the initial phone call,  
16 if given permission.

17 Q And the customer has to  
18 authorize that in writing, correct?

19 A Yes. We at times can take a  
20 verbal as well.

21 Q And you mentioned that there  
22 are different products that you can  
23 recommend to the customer, correct?

24 A That's correct.

25 Q Can you just give me an idea

1

68

2 for a refinance what those products might  
3 be?

4 A Sure.

5 You could talk about the  
6 length of term for the mortgage, be it a  
7 15 year, 20 year, 30 year. We had  
8 conventional financing, FHA financing, VA  
9 financing if they were a serviceman or  
10 woman. You know, if it was a purchase,  
11 different down payment options. We could  
12 discuss if they wanted to buy discount  
13 points to get their interest rate lower,  
14 how much was refinancing, if they wanted  
15 to utilize equity that they wanted to pay  
16 bills, which bills or cash out, how much  
17 cash. Little things like -- like that.

18 Q As your volume was increasing  
19 in 2015, would that conversation about  
20 products be something that someone else  
21 at MLD would speak to the customer about,  
22 excluding the referral cases?

23 A No.

24 Q So when it came to products  
25 and the type of products, that was

1

69

2 something that you would speak to the  
3 customer about?

4 A Yes.

5 Q Always?

6 A Yes.

7 Q What portion of the workday  
8 or workweek or however you can estimate  
9 it would you spend on the phone?

10 A We're on the phone a lot, you  
11 know. If you had a -- I would say, like  
12 I say, call it a 12-hour workday, you can  
13 be on the phone five of those hours easy,  
14 maybe close to -- close to half a day.  
15 Some days were different than others,  
16 too.

17 Q Once a customer has isolated  
18 an option for the transaction, what steps  
19 would you have to take?

20 A As in once they chose the  
21 product that they wanted to --

22 Q Correct.

23 A -- move forward with?

24 That's when we would have the  
25 disclosure sent to the borrower. We

1

70

2       would get them a list of what documents  
3       that we needed from them to complete the  
4       transaction, you know. We had to file  
5       different compliance things, so when we  
6       got the disclosures back, we could go  
7       ahead, order the appraisal, order a title  
8       search.

9                   As those -- all documents  
10      were coming in, be it from the borrower  
11      or one of the vendors, we were reviewing  
12      those, making sure that the loans still  
13      qualified under the same terms, following  
14      up with the customer to see if there was  
15      anything in addition that we needed, if  
16      something popped up on their title, like  
17      a lien or judgment that they were unaware  
18      of or, oh, they forgot that their, you  
19      know, mother was on the title of the  
20      house or on the deed. Things like that  
21      that would pop up throughout the process  
22      that would have to be addressed.

23                  Q       So who would order the  
24      appraisal?

25                  A       So they changed the ordering

1

71

2 processes, so what we do is we would get  
3 the borrower's information, get a credit  
4 card authorization form filled out, and  
5 then it was sent to an appraisal ordering  
6 desk which had to put the order through  
7 the AMC, which is an appraisal management  
8 company.

9 Q Was the appraisal ordering  
10 desk a desk in MLD?

11 A Yes.

12 Q Do you know where that was  
13 located?

14 A In East Meadow.

15 Q Am I correct in saying you  
16 would transmit the information and then  
17 the appraisal ordering desk would order  
18 the appraisal?

19 A That's correct.

20 Q Would you see the appraisal?

21 A When it came back we would  
22 get a copy of it.

23 Q Did you ever have to take any  
24 action based on the appraisal?

25 A Yes.

1

72

2 Q Were there times that the  
3 house did not appraise for the amount  
4 that you submitted?

5 A Yeah, there were times where  
6 the appraisal would come in a little  
7 lower, and if we disagreed, you know, we  
8 could rebut the value. There were times  
9 that you'd have an issue with the -- with  
10 the house. It could be, you know, the  
11 roof needs to be replaced or, you know,  
12 something's falling apart on the interior  
13 that we'd have to address with the  
14 customer.

15 Q When you said that you could  
16 rebut the value of the appraisal, who  
17 specifically at MLD would do that?

18 A Well, we would do our best  
19 research to pull sales - nearby sales and  
20 recent sales - that are comparable to the  
21 subject property.

22 Q Those are called comps?

23 A Comps.

24 Q When you say "we," you're  
25 talking about yourself and Brian?

1

73

2 A Yes.

3 Q Okay.

4 A Then what we do, we would  
5 send back over to the appraisal ordering  
6 desk or we could send it to the AMC  
7 directly and say, Hey, can we have an  
8 appraiser take a look at comparables.

9 These comps, we think some of them could  
10 be better suited for this report.

11 Sometimes the appraiser would use them,  
12 sometimes they would not.

13 Q Was there anyone, other than  
14 you or Brian, that would have researched  
15 comps for an appraisal?

16 A If it was on one of our loans  
17 that we were working on?

18 Q Right.

19 A No.

20 Q How would the title policy be  
21 ordered?

22 A We would typically order it  
23 via e-mail. If it was a refinanced  
24 transaction --

25 Q Who would you e-mail?

1

74

2 A The title company.

3 Q Was that sent from an MLD  
4 e-mail?

5 A Yes.

6 Q Who would review the title  
7 policies?

8 A There was a lady that worked  
9 in the East Meadow office who did the  
10 title reviews in conjunction with the  
11 bank for MLD.

12 Q Did you ever do any reviews?

13 A We would review them at our  
14 level, but in order to get it, you know,  
15 cleared in the system, it had to be done  
16 by that particular MLD employee in East  
17 Meadow and the bank attorney.

18 Q And the bank attorney may  
19 find subtleties that you might not know  
20 about; is that correct?

21 A Yeah, a lot of that they  
22 would look at would be making sure if the  
23 middle initial was in there, if that's  
24 how their name appeared on the deed.  
25 They always wanted to make sure that

1

75

2                   everything on the title was copacetic  
3                   that we could sell it to one of our  
4                   investors.

5                   Q         Now, if a lien popped up,  
6                   that would be something that you could  
7                   review, right?

8                   A         Yeah. It would be reviewed  
9                   on the other level as well, but let's say  
10                  the title came in and they were backed up  
11                  48 hours before they were going to be  
12                  able to get to that title review, we  
13                  could look at it and make the initial  
14                  contact with the customer and say, Hey,  
15                  I'm looking at this, can you explain to  
16                  me what's going on.

17                  Q         If the person at MLD reviewed  
18                  it properly, would that person then  
19                  contact the customer about a lien that  
20                  popped up?

21                  A         No, we would still have the  
22                  correspondence with the customer.

23                  Q         How often would that  
24                  correspondence with the customer about  
25                  title report be by e-mail and how often

1

76

2           would that be verbal over the phone?

3           A         It would really depend on the  
4           customer and what their preferred method  
5           of communication was. But that being  
6           said, more times than not it would start  
7           at least with a phone call and then if  
8           they wanted to see what showed up we  
9           could e-mail them a document or a copy of  
10          something.

11          Q         Would that be a phone call  
12          that you or Mr. Schiele would make?

13          A         Yes.

14          Q         You also indicated as parts  
15          of this process you would review  
16          documents. Are there any documents you  
17          would review that you haven't already  
18          testified about?

19          A         We spoke about the borrower's  
20          documents that we needed to collect.

21          Q         Those are the initial  
22          documents, right?

23          A         Well, there's initial  
24          disclosures and then the stuff we would  
25          request from them, could be tax returns,

1

77

2 W-2s, pay stubs, home insurance, bank  
3 statement, mortgage statement, IDs that,  
4 you know, those could differ based on the  
5 type of loan, but we would review those  
6 as well.

7 Q Who would make the contact  
8 with the customer to obtain that  
9 information?

10 A The loan officer.

11 Q So you or Brian for one of  
12 your transactions, correct?

13 A Yes.

14 Q How often would you get these  
15 documents by e-mail, how often by regular  
16 mail?

17 A I would say a lot of them,  
18 about 50/50.

19 Q How often would you meet a  
20 customer before the transaction  
21 consummated?

22 MR. REILLY: Objection to  
23 form.

24 A Very irregularly. Not  
25 frequently at all.

1

78

2 Q Less than once a month?

3 A Yes. If the customer was  
4 local enough to East Meadow and wanted to  
5 come into the office that would really be  
6 the only time.

7 Q Did customers on Long Island  
8 ever say, "I have the stuff, can you pick  
9 it up at my office?"

10 A They would -- yes, sometimes  
11 they would say that.

12 Q How often was that?

13 A Very infrequent.

14 Q If that occurred, would you  
15 and Brian be the ones to pick it up or  
16 would someone else?

17 A Usually what we would do is  
18 ask them that, "Are you able to scan and  
19 e-mail it?" And if they said no, if  
20 they, depending on how far away they were  
21 from us, we'd be more likely to send them  
22 a prepaid overnight to send it back to us  
23 that way. If it was, like, local, five  
24 or ten minutes, we'd probably go pick it  
25 up.

1

79

2 Q When you say "we," that would  
3 be yourself or Brian?

4 A Myself and Brian, yes.

5 Q Did you have any support  
6 staff working for you at MLD?

7 MR. REILLY: Objection to  
8 form.

9 A There were -- they didn't  
10 work for us. They worked for MLD, but  
11 there was staff that worked on our loans.

12 Q What did the staff do in  
13 relation to your loans?

14 A There were loan processors.  
15 There were underwriters. There was title  
16 review. There was post closing.

17 Q What did the loan processors  
18 do for your loans?

19 A They would also review some  
20 of our documents when they came in.  
21 Typically they would get them uploaded  
22 and into the appropriate buckets in our  
23 loan origination system that we had on  
24 the computer. They would know the form  
25 in which the underwriters wanted to

1

80

2 review them, so they would upload them  
3 that way and actually click the  
4 submission button to know that they had  
5 -- had a viable loan that was ready for  
6 the underwriter to review.

7 Q Ultimately the loan has to be  
8 reviewed by the underwriter, correct?

9 A Yes.

10 Q Do you know where the  
11 underwriters physically were located?

12 A The ones that underwrote our  
13 loans were in the East Meadow office.

14 Q Were you able to have contact  
15 with the underwriters?

16 A Yes.

17 Q Could you have contact with  
18 the underwriters about specific loans?

19 A Yes.

20 Do you mind if we take a  
21 quick five-minute break?

22 Q Sure. Absolutely.

23 (Recess taken.)

24 Q Mr. Rakeman, to your  
25 knowledge, does Mr. Schiele share your

1                   same religious convictions?

2                   A         Yes.

3                   Q         Did any other loan officers  
4                   at MLD share those religious convictions?

5                   A         I'm -- probably, yeah.

6                   Q         Do you and Mr. Schiele go to  
7                   the same church?

8                   A         No.

9                   Q         Did any other MLD loan  
10                  officer go to the same house of worship  
11                  or church as you?

12                  A         No.

13                  Q         Were there occasions where  
14                  underwriters did not approve loans you  
15                  submitted?

16                  A         Yes.

17                  Q         Did you ever get into  
18                  discussions with them about that?

19                  A         Yes.

20                  Q         What percentage of loans  
21                  would you say were not approved and never  
22                  approved by underwriters?

23                  A         That even after discussion  
24                  didn't get approved?

1

82

2 Q Right.

3 A Three percent, two percent.

4 Q Were there transactions that  
5 you would cease processing because you  
6 knew it would never get to an  
7 underwriter?

8 A Yes.

9 Q What percent of the time did  
10 that occur?

11 A Twenty percent.

12 Q What is the post-closing  
13 department at MLD?

14 A So if MLD sold their loans to  
15 investors, so if there was a post-closing  
16 issue, and what I mean by that, if the  
17 investor wanted documentation or an  
18 explanation on something in order to  
19 purchase the loan, they would correspond  
20 with MLD's post-closing department, and  
21 then often times that would trickle down  
22 back to us to obtain documents, if we  
23 needed to, from, you know, the customer  
24 or whomever they needed.

25 Q Other than yourself or

1

83

2 Mr. Schiele, who at MLD would have direct  
3 phone communication with a customer  
4 during an ordinary loan transaction?

5 A On a loan that we were doing  
6 ourselves --

7 Q Right.

8 A -- or just, like, an  
9 applicant?

10 Q Well, isn't the applicant for  
11 one of your loans?

12 A What I'm asking you is are  
13 you asking kind of a general question or  
14 are you saying if Mike Rakeman has a loan  
15 that he is selling, who else speaks to  
16 that customer during the process?

17 Q Right.

18 A Is that the question?

19 Q Yes.

20 A Typically, no one.

21 Q When you worked at MLD, did  
22 you have a license?

23 A Yes.

24 Q Were there ever any  
25 complaints to the licensing agency about

1                         you?

2                         A              During the time at MLD?

3                         Q              Yes.

4                         A              No.

5                         Q              Prior to the time you worked  
6                         at MLD were there any complaints?

7                         A              Yes.

8                         Q              Did the license authority  
9                         ever take any discipline against you?

10                        A              While we worked at MLD?

11                        Q              At any time.

12                        A              Yes.

13                        Q              When did that occur?

14                        A              When we worked at Contour  
15                         Mortgage.

16                        Q              And was this only one  
17                         occasion of discipline?

18                        A              Well, we were -- we got it  
19                         two times. A second time when we were at  
20                         Intercontinental Capital Group.

21                        Q              When you say "we," are you  
22                         referring to yourself and Mr. Schiele?

23                        A              Yes.

24                        Q              So when you were at Contour,

1  
2 what were you and Mr. Schiele disciplined  
3 for?

4 MR. REILLY: Just note my  
5 objection to the question.

6 Go ahead.

7 A The website was not  
8 authorized with the New York State  
9 Department of Banking.

10 Q Was there a penalty for that?

11 A Yes.

12 Q What was the penalty?

13 A For myself it was, I believe,  
14 either 5 or \$10,000.

15 Q Was that your own discipline  
16 at Contour Mortgage?

17 A Yes.

18 Q What were you disciplined for  
19 at Intercontinental?

20 MR. REILLY: Again, objection  
21 to the question.

22 Go ahead.

23 A The same thing where this  
24 time we had gone over it with in-house  
25 legal and they gave us the green light,

1

86

2       but the banking department saw it  
3       differently so it was the same for  
4       unlicensed -- not unlicensed,  
5       unregistered website.

6           Q       Were you fined?

7           A       Yes.

8           Q       How much was the fine?

9           A       Twenty-five thousand.

10          Q       Other than those two  
11       instances, have you ever been the subject  
12       of any discipline by the licensing  
13       authority?

14          A       No.

15          Q       Contour Mortgage, who paid  
16       the fine?

17          A       We did, Brian and myself.

18          Q       What about Intercontinental?

19          A       Same thing.

20          Q       I want to go back to the  
21       advertising. Who usually made the call  
22       to the entity that would do the  
23       advertising, yourself or Mr. Schiele?

24          A       Either one of us but --  
25       either one of us.

1

87

2 Q Was there any paperwork that  
3 was involved in the purchasing of the  
4 advertisements?

5 A Yes.

6 Q Who usually filled those out?

7 A It was really more just a  
8 signature agreeing to the terms, and it  
9 would be signed by -- really anyone could  
10 sign it, myself, Brian could have someone  
11 from MLD sign it. It didn't make a  
12 difference.

13 Q How much time did you and  
14 Brian spend a week or a month discussing  
15 the advertising?

16 A For a new campaign?

17 Q Yes.

18 A I would say probably around a  
19 week.

20 Q One week per month?

21 A Oh, are you talking about  
22 starting the new campaign or insights on  
23 how to advertise differently within an  
24 already running campaign?

25 Q Let's start with starting a

1

88

2 new campaign.

3 How much discussion would you  
4 have between yourself and Mr. Schiele  
5 about starting a new campaign?

6 A Usually it was in conjunction  
7 with the media buyer and/or the station  
8 rep where, you know, a proposal would be  
9 rolled out to us, he and I would discuss  
10 it, we would do some research, we would,  
11 you know, kick the tires on how we wanted  
12 to approach it, how much frequency we  
13 wanted to run it, and that probably was  
14 all within a week or two's time.

15 Q In that one to two weeks, how  
16 many hours would you spend on that?

17 A I don't know, maybe four.

18 Q Did you ever go meet a media  
19 buyer or a station rep in person?

20 A Go meet, no, they would come  
21 to our office.

22 Q How often would they come to  
23 your office?

24 A Typically when they were --  
25 if it was either a new campaign or if

1

89

2       they had some ideas or just wanted to  
3       come out and, you know, say hi and  
4       discuss some ways in which they can  
5       improve upon what we're already doing.

6           Q       How often did you and Brian  
7       do a new campaign?

8           A       While at MLD?

9           Q       Yes. Yes.

10          A       I'd have to go back and look,  
11       but I would say we probably started four  
12       or five different ones throughout that  
13       time.

14          Q       How did you and Brian monitor  
15       a campaign?

16          A       We would look at how many  
17       applicants that we had from it, how much  
18       call volume and frequency we got from it,  
19       how much -- how many website inquiries or  
20       hits we got from it, and then ultimately  
21       what was most important was how many  
22       closed transactions.

23          Q       And you still advertise in  
24       your current position?

25          A       Yes.

1 90

2 Q While you were working at MLD  
3 did you ever complain about how you were  
4 being compensated?

5 A Yes.

6 Q Whom did you complain to?

7 A John, Mike and Scott.

8 Q What did you complain about?

9 A That we weren't getting paid  
10 what we were supposed to.

11 Q Could you be more specific?

12 A Yeah, that our commission  
13 check was pretty short pretty much every  
14 pay period.

15 Q Did you ever complain to  
16 anyone at MLD that you should have been  
17 paid overtime?

18 A No, we didn't complain about  
19 overtime specifically.

20 Q When is the first time that  
21 you believe that you were not compensated  
22 properly because you did not receive  
23 overtime?

24 A Well, when we were let go and  
25 fired and we were owed, realizing that we

1

91

2       were working well above and beyond a  
3       typical 40 hour workweek and realizing  
4       that by law we should have been  
5       compensated for, you know, those  
6       additional hours coupled with, you know,  
7       a large amount of unpaid commissions, you  
8       know, that we needed to rectify the  
9       matter.

10           Q       What is your belief as to  
11       what the unpaid commissions are?

12           A       Collectively between Brian  
13       and myself?

14           Q       If that's the best way you  
15       can measure it, yes.

16           A       About 1.5 million.

17           Q       What do you base that on?

18           A       Contracts with them that we  
19       were supposed to be paid on funded loans  
20       that closed while employed at MLD coupled  
21       with our compensation structure.

22           Q       Do you believe that there  
23       were loans that funded while you were  
24       employed at MLD that you never received  
25       compensation for?

1

92

2 A            Absolutely.

3 Q            Is that the entirety of the  
4 1.5 million?

5 A            So that's what the 1.5 would  
6 make up. So we had contracts that  
7 specified a certain amount of basis  
8 points that we were to be paid when a  
9 loan funded, and when you do the math on  
10 something like that, your commission  
11 check should never really be a  
12 rounded-off number.

13                A contract says loans fund  
14 within a certain period of time. The  
15 next pay period you get paid based on  
16 your basis-point contract with the  
17 organization, which we never got much.  
18 It was always, you know, light of what it  
19 should have been. It was always a  
20 perfectly round number that it was almost  
21 like they were just pulling a number out  
22 of the sky.

23 Q            Is any of your claim for  
24 commissions owed based on loans which you  
25 brought in but funded after you were

1

93

2 terminated?

3 MR. REILLY: Objection to  
4 form.

5 A No, I don't believe so.

6 There was a number of loans that we  
7 originated and when we were let go on  
8 September 21, 2015, I believe, that then  
9 funded out throughout October and  
10 November, but I'm not including those in  
11 that number.

12 Q Do you believe you are owed  
13 for those loans that closed  
14 posttermination?

15 A Typically you would be, yes,  
16 if the employer is honorable, but I don't  
17 think that's the case here.

18 Q What makes you believe that  
19 MLD is not honorable?

20 A Because they knowingly did  
21 not pay us what they agreed to  
22 contractually.

23 Q You did have a contract with  
24 MLD, correct?

25 A Yes.

1

94

2 Q And you believe that contract  
3 should be honored?

4 A Yes.

5 Q That's the purpose of a  
6 contract, right?

7 A Correct.

8 Q And you entered that contract  
9 in good faith believing that MLD would  
10 rely on the terms of that contract,  
11 correct?

12 A Yes.

13 MR. REILLY: Objection to  
14 form. Last question.

15 Q Do you know how much you are  
16 owed allegedly on your overtime claim?

17 A I'd have to go back and look.  
18 I know there's some interest involved as  
19 well, but it was a large number based on  
20 our time that we had worked there and the  
21 calculations that New York State requires  
22 you to follow.

23 Q How many hours a week do you  
24 estimate that you worked while you were  
25 at MLD?

1

95

2 A About 90 hours a week.

3 Q Were there hours of operation  
4 for the MLD office for the general  
5 public?

6 A What do you mean by "the  
7 general public"?

8 Q I believe you testified  
9 earlier that the office could be open as  
10 early as 7:00 a.m.; is that right?

11 A Yes.

12 Q And it could be open as late  
13 as 10:00 p.m.?

14 A Correct.

15 Q Did the office advertise  
16 hours to the general public if someone  
17 wanted to come into MLD?

18 A I don't think that they did.  
19 We didn't really have much walk-in  
20 business. It wasn't a storefront office  
21 where you would kind of see that.

22 Typically a company like MLD  
23 in that branch setting would have  
24 advertisements that would run or they  
25 would purchase leads and it would be

1

96

2 phone sales done from there.

3 Q Were your hours with MLD the  
4 same Monday to Friday?

5 A Monday through Thursday they  
6 were pretty consistent. Friday was  
7 usually a little bit of a shorter day,  
8 but it wasn't, you know, weeks could  
9 change and days could change based on the  
10 demand.

11 Q What were your typical hours  
12 Monday to Thursday?

13 A I was -- I was working some  
14 facet of mortgage loan originating from  
15 about 7:00 a.m. to 10:00 p.m.

16 Q How many of those hours were  
17 at the office?

18 A I would say the majority of  
19 them, depending on what time I actually  
20 stepped foot in the office, I would  
21 usually leave around 7:30, 8:00 at night,  
22 so some of that work was done from home  
23 after I got home.

24 Most dinners were consumed in  
25 the office, so when I got home, you know,

1

97

2 it wasn't like I was sitting down to --  
3 to another meal or anything like that, so  
4 majority.

5 Q What time did you usually get  
6 into the office?

7 A Between 7 and 8.

8 Q During the time you were  
9 there, I believe you testified you had a  
10 short commute?

11 A Yes.

12 Q How long was that commute?

13 A Ten, fifteen minutes.

14 Q You gave an address earlier  
15 today. Was that the address that you  
16 were living in when you worked at MLD?

17 A No, I lived at 153 Cleveland  
18 Avenue in Rockville Centre.

19 Q So your commute was from that  
20 point to East Meadow?

21 A If I went directly from my  
22 house, yes.

23 Q Where else would you go to  
24 work from?

25 A Sometimes the gym.

1  
2 Q What time would you go to the  
3 gym?

4 A Sometimes I would go at 6 in  
5 the morning. Sometimes I would go a  
6 little bit later, depending on the day,  
7 you know, depending on what time I woke  
8 up or what I had going on. You know, all  
9 of our e-mails and faxes and everything  
10 came to our phones, so there were times  
11 where, you know, you wake up, you're on  
12 that. You're pulling up PDFs and  
13 reviewing documents, so I would be doing  
14 that and then maybe go, get a workout and  
15 then head to the office.

16 I also had a membership at  
17 the gym that was in the same shopping  
18 center as the office.

19 Q So I am sorry, were you  
20 checking your e-mails and pulling up the  
21 PDFs and documents before you left for  
22 the gym?

23 A Some days, yes. Some days,  
24 no.

25 Q Would you check your e-mail

1

99

2           between when you arrived at the gym and  
3           before you got to the office?

4           A         Yeah, at times I would go  
5           through my phone, yes.

6           Q         Did you have lunch when you  
7           worked for MLD?

8           A         Yes.

9           Q         When did you have lunch?

10          A         Midday, 12, 1, 2, around  
11          there.

12          Q         What did you do for lunch?

13          A         Ordered in.

14          Q         Where did you order from?

15          A         We get Frantoni's. There is  
16          a pizza place right by the office.  
17          Coliseum Deli, and for a while I was  
18          buying some precooked meals so I would  
19          have them in the fridge so I didn't have  
20          to do anything. It would be right there  
21          ready for me.

22          Q         When lunch was ordered, was  
23          that something that was paid for by MLD?

24          A         No, myself or Brian would  
25          pay.

1 100

2 Q How did you pay?

3 A Sometimes credit card,  
4 sometimes cash.

5 Q But that would have been your  
6 own credit card?

7 A Yes.

8 Q Did MLD give you a credit  
9 card?

10 A No.

11 Q Is that something you would  
12 expense?

13 A No.

14 Q Where would you eat lunch?

15 A At my desk.

16 Q With anyone?

17 A Like, was anyone sitting at  
18 my desk with me?

19 Q Or near you.

20 A Brian and I shared an office,  
21 so if we ate at the same time I guess you  
22 could say we were eating together.

23 Q Okay.

24 Did you take time off from  
25 work while you were eating?

1

101

2           A         If I was chewing I wouldn't  
3           take a phone call, but I would pick up  
4           and say, "Hang on a second," swallow and  
5           then get back on the phone. I mean, it  
6           was all commissioned. It was, you know,  
7           you ate when you could so to speak.

8                   So we, you know, there was no  
9           time for doing anything other than work  
10           at that point. It was a terrific market.

11           Q         Other than MLD, have you ever  
12           complained to anybody about being  
13           improperly compensated in the mortgage  
14           industry?

15           A         There were times with past  
16           employers where, you know, we may argue  
17           over commissions. I guess that's pretty  
18           typical for the industry.

19           Q         Other than MLD and Contour,  
20           have you ever complained that any  
21           employer has not paid you overtime?

22           A         No.

23           Q         Do you get overtime in your  
24           current position?

25           A         No, I do not.

1

102

2

Q Weren't there employees at  
MLD who completed time sheets?

4

5

MR. REILLY: Objection to

form.

6

7

A I couldn't answer if they did  
or did not.

8

9

Q Did you ever see any time  
sheets while you were at MLD?

10

11

12

13

14

15

16

A I personally never saw any  
time sheets, but I would imagine that  
they -- they probably had them. I think  
I saw -- I believe there were e-mails  
about completing them, but I never saw  
them and they weren't directed towards  
us.

17

18

Q Did you ever ask anyone why  
you didn't complete time sheets?

19

A I never asked anyone, no.

20

21

Q Did you ever ask anyone for a  
time sheet to complete?

22

A No.

23

24

Q Did you ever recruit anyone  
to join this lawsuit?

25

A Did I recruit someone to join

103

1                   the lawsuit?

2                   Q         Yes.

3                   A         No.

4                   Q         When you worked at MLD, who  
5                   lived in the house where you lived?

6                   A         Myself, my wife and my two  
7                   daughters.

8                   Q         What years were your  
9                   daughters born?

10                  A         2010 and 2012.

11                  Q         So they were toddlers when  
12                  you worked at MLD?

13                  A         Yes.

14                  Q         Did you bring any clients to  
15                  MLD when you started there?

16                  MR. REILLY: Objection to  
17                  form.

18                  A         When you say "clients," like,  
19                  did I come in -- into the bank with  
20                  customers?

21                  Q         Right.

22                  A         So any customers that we had,  
23                  as I had mentioned previously, when we  
24                  had a meeting with Contour, when we had a

1

104

2 Contour meeting and we closed out  
3 whatever because the pipeline that we had  
4 there, and then any new origination at  
5 that point would have been a new  
6 customer, not anything that we were  
7 coming in with.

8 Q Other than churches, did any  
9 of your customers come from institutions?

10 A I don't believe so.

11 Q Did you have a Rolodex at  
12 Contour?

13 A No.

14 Q Did you ever mentor loan  
15 officers at MLD?

16 A No.

17 Q Did anyone in your office  
18 have a door on their office at MLD?

19 A Yes.

20 Q You and Mr. Schiele were in  
21 that office?

22 A Yes.

23 Q Was anyone, other than you  
24 and Mr. Schiele, in that office --

25 A No.

1

105

2 Q -- when you worked at MLD?

3 A No.

4 Q Was there a ranking of loan  
5 officers at MLD?

6 A As in, like, who produced the  
7 most?

8 Q Yes.

9 A Nothing official.

10 Q Was there a ranking in  
11 authority of the loan officers?

12 A Not that I'm aware of. I  
13 think all loan officers were on the same  
14 level just as mortgage loan originators.

15 Q You identified three people  
16 who were supervisors before. Do you  
17 recall that?

18 A Yes.

19 Q Were any of them mortgage  
20 loan originators?

21 A None of them were. Oh, I  
22 believe that Scott Schraeger had a -- had  
23 a license to originate.

24 Q To your knowledge, did he use  
25 that while he worked at MLD?

106

1 A I'm not sure.

2 Q Did you and Mr. Schiele run  
3 the department insofar as it pertained to  
4 the mortgage loan officers?

5 MR. REILLY: Objection to  
6 form and objection to the question.

7 Go ahead.

8 A No, we didn't run anything.

9 Q Did any loan officers report  
10 to you and/or Mr. Schiele?

11 A No.

12 Q When you left MLD, did you  
13 and Mr. Schiele go together to the next  
14 employer?

15 A Yes, we did.

16 Q Was that Precision Financial?

17 A No, this was Intercontinental  
18 Capital Group. Precision was the one  
19 prior to Contour.

20 Q That's where you are right  
21 now, Intercontinental?

22 A Yes.

23 Q Did any loan officers go from  
24 MLD to Intercontinental Capital, other

1

107

2 than yourself and Mr. Schiele?

3 A Yes.

4 Q How many others?

5 A I think about five or so.

6 Q Did they all go at the same  
7 time?

8 A Yeah, right around the same  
9 time. Not everyone but a majority of  
10 them.

11 Q Before you left MLD did you  
12 discuss going to Intercontinental Capital  
13 with Mr. Schiele?

14 A Prior to getting fired from  
15 MLD?

16 Q Right.

17 A Well, towards the end of our  
18 tenure there, you know, we were having  
19 major issues being compensated, so much  
20 so that one month I think I personally  
21 funded over 30 units, which in the  
22 business is pretty unheard of, and I  
23 think one of my checks was less than  
24 \$33,000 where it probably should have  
25 been closer to a high five figure, maybe

108

1 even low six figures.

2 So at that point we had  
3 discussions of, you know, the -- what the  
4 financial state of the company was and if  
5 we should look at other options.

6 Q Can you give me a timeframe  
7 on that?

8 A Maybe August, September,  
9 around there.

10 Q That's 2015?

11 A Yes.

12 Q Were those discussions with  
13 you and Mr. Schiele only, or were there  
14 other people involved?

15 A There was -- those were  
16 conversations that he and I had.

17 Q Just the two of you?

18 A Yeah.

19 Q How many discussions would  
20 you say you had about that?

21 A It's tough to recall how  
22 many. I don't know how many.

23 Q At the time you had those  
24 discussions did you know that the branch

109

1                   would close?

2                   A           No.

3                   Q           Do you recall when the branch  
4                   closed?

5                   A           So we were fired in September  
6                   of 2015. I believe that they completely  
7                   closed down maybe the summer of '16.

8                   Q           Did you think your leaving  
9                   had to do with the branch closing?

10                  A           I think that they thought  
11                  that they would be able to sustain the  
12                  branch and all the expenses and  
13                  everything like that without our  
14                  production or somehow be able to replace  
15                  our production, because looking back on  
16                  it, it was our revenue and the difference  
17                  of what we were supposed to get paid and  
18                  got paid that basically funded their  
19                  entire operation it seems.

20                  Q           Let me follow up on that.

21                  Did anyone ever tell you that  
22                  he or she believed that the branch closed  
23                  because you and Mr. Schiele left or were  
24                  terminated?

1

110

2 A No one ever said that to me  
3 specifically.

4 Q How many discussions did you  
5 have with Mr. Schiele about leaving MLD  
6 before you left or were terminated by  
7 MLD?

8 A I think you asked me that  
9 before.

10 I don't recall how many.

11 Q Did you ever involve anyone,  
12 other than Mr. Schiele, in those  
13 discussions?

14 A No.

15 Q Before you left MLD did you  
16 ever advise any MLD loan officers where  
17 you were going?

18 A No.

19 But just for the record, you  
20 keep saying that when we left.

21 Q Right.

22 A We were terminated.

23 Q Okay. Understood.

24 MR. REILLY: Objection to  
25 form. Last question.

111

2 Q Let me rephrase that.

3 Before you were terminated  
4 from MLD did you ever advise any loan  
5 officers, other than Mr. Schiele, where  
6 you were going?

7 A No, we didn't know anything  
8 as of that period of time because, you  
9 know, we were literally working  
10 originating loans when we were told to  
11 pack up our stuff.

12 Q We'll get to that.

13 What was the period of time  
14 between your last day working at MLD and  
15 your first day working at  
16 Intercontinental Capital?

17 A I have to go back and see  
18 when we started at Intercontinental, but  
19 I would venture to guess a week or so.

20 Q Who were you talking to at  
21 Intercontinental Capital about possibly  
22 working there?

23 A When?

24 Q When you were at MLD.

25 A Well, when we were at MLD, I

1 112

2 mean, on any given time, no matter where  
3 we're working, you know, good, bad or  
4 indifferent, other bank owners will  
5 contact myself and/or Brian with  
6 opportunities, because they're aware of  
7 our reputation in terms of, you know,  
8 production and, you know, doing good,  
9 clean business.

10 So, you know, there's many  
11 bank owners that would contact us and  
12 speak to us and, you know, it's something  
13 that when you're in a sales position,  
14 it's foolish not to hear people out.

15 Q Am I correct in saying that  
16 your discussions with Intercontinental in  
17 August to September of 2015 while you  
18 worked at MLD were more serious than the  
19 discussions you were having with the  
20 other companies?

21 A No, not necessarily. I don't  
22 even know if there was any as far as back  
23 as in August or anything like that. You  
24 know, the two gentlemen that at the time  
25 owned Intercontinental Capital Group I

113

had known since, you know, I had known  
them for over a decade. So there were  
people that I would speak to  
semi-regularly anyway.

Q Who were the people at  
Intercontinental you spoke with about  
potentially working there in August or  
September of 2015?

10                   A           I don't recall what the date  
11                  was, but the people that owned the bank,  
12                  that would be the only ones that I would  
13                  have any correspondence with, would be  
14                  Dustin Damisa and Richard Steinberg.

15 Q Tell me that first person.

16 A Dustin Damisa. All with Ds.

17 Q During the period between  
18 when you were terminated by MLD and you  
19 worked with Intercontinental did you  
20 speak with any other possible employers?

21                   A               There were some other banks,  
22                   I believe, that we had spoken to that had  
23                   contacted us. I don't recall off the top  
24                   of my head who they were, but, you know,  
25                   there was kind of one of those things

1 114

2 where there would be bank owners that  
3 would periodically check in, "Hey, how's  
4 it going? You want an opportunity?"  
5 That type of conversation.

6 Q Did you use a laptop computer  
7 when you worked at MLD?

8 A No. Well, I shouldn't say --  
9 did MLD provide me with a laptop  
10 computer?

11 Q Yes, either one.

12 A No, they didn't. I had a  
13 computer at my house that I would use.

14 Q Was that a desktop or a  
15 laptop?

16 A I had one of each.

17 Q Did those have MLD  
18 information on them?

19 A Anything that I use  
20 pertaining to MLD was a web-based thing  
21 so I could pull it up that way.

22 Q Did you ever store any of  
23 that on either of your hard drives?

24 A I don't think it was  
25 something that you were able to store.

1

115

2 Q Mr. Rakeman, I think I asked  
3 you your hours Monday through Thursday  
4 and you said you had shorter hours on  
5 Friday, correct?

6 A Yeah, and it would vary, you  
7 know. Typically on a Friday I wouldn't  
8 be going home until 10:00 p.m. I usually  
9 would start around the same time but, you  
10 know, if I could wrap up by, you know, 7  
11 or 8 or so, you know, I would try to do  
12 that. It wouldn't always happen, but...

13 Q Would it be the same start  
14 time?

15 A Yes.

16 Q What were your average hours  
17 on Sunday?

18 A It was always as needed but,  
19 you know, just the nature of the business  
20 and the nature of our position, when you  
21 wake up in the morning, you got to do  
22 what you got to do. Once you put your  
23 hands on your phone you basically got  
24 work to do. You're going to see e-mails,  
25 faxes, potential leads, whether it's an

1

116

2 online inquiry or phone calls that came  
3 in, voicemails to check, and you may have  
4 scheduled time to talk to a customer  
5 about their transaction 'cause that may  
6 be a good time for, you know, a husband  
7 and a wife to both be able to sit down  
8 together and chat. So it wasn't  
9 necessarily set time but, you know, it  
10 was very easy that you could put in, you  
11 know, seven, eight, nine, ten hour days  
12 on a weekend.

13 Q What would you say was the  
14 average that you worked on Saturdays?

15 A Total duration or time to  
16 time?

17 Q Time to time. Let's start  
18 with that.

19 A I would say, you know, 7,  
20 8:00 in the morning would be the time  
21 that I would get my, you know, phone and  
22 have stuff going on, and that could be up  
23 until 6, 7:00 p.m., you know, with breaks  
24 in the interim.

25 You know, if I was at my

1

117

2       kid's sporting events or something, you  
3       know, I would do my best not to take my  
4       phone out.

5           Q        What about Sunday?

6           A        Same thing, except I would  
7       start a little bit later.

8           Q        What time would you start?

9           A        You know, the morning we'd  
10      have, you know, breakfast, we'd go to  
11      church, and then I usually would get back  
12      home and be able to get to my phone, if  
13      that was our typical Sunday morning, by,  
14      you know, 11, 11:30. And same thing, I  
15      could go 'till, you know, 8:00 or so at  
16      night.

17           Q        How often would you actually  
18      go to MLD's office on a Saturday?

19           A        Give or take, two, three  
20      times a month.

21           Q        How often on a Sunday?

22           A        Not often. Only if there was  
23      something that I needed to do that I  
24      could not do from my house, so if once a  
25      month that would be... .

118

Q Am I correct in saying that if you went to the office for MLD on Saturday it would be for a short period of time?

A Depending. If there was something that -- that I needed to do or if there was -- let's say there was a bunch of deals that I needed to, you know, as we say, pitch or sell to a customer, you know, I just wanted to be where I had access to things easier than if I was at home. I can go in there and do that, you know, over a few hours.

Sometimes if there was a local customer that wanted to come into the office and discuss things face to face I could meet them on a Saturday, so it could be a few hours, though.

Q On Saturdays wouldn't you try to do as much work from home as you possibly could?

A If I had the option. If I could get it done from my house as opposed to going to the office I would,

1

119

2       but, you know, there were times, you  
3       know, I'd be in Saturday for five hours,  
4       so... .

5           Q        What do you think is the  
6       average amount of time you spent in MLD's  
7       office on a Saturday?

8           A        When I would go in, you're  
9       saying?

10          Q        Yes, the average amount of  
11      time you would spend at MLD's physical  
12      office in East Meadow on a Saturday.

13          A        Okay, so if it was a Saturday  
14      that I did go to the office I probably  
15      would be there for about four to  
16      five hours.

17          Q        That was two to three times a  
18      month?

19          A        Yeah, give or take.

20          Q        What would be the average  
21      amount of time you spent working at MLD's  
22      office on a Sunday, if you went in on a  
23      Sunday?

24          A        It would really only be if  
25      there was something that I, as I said,

1 120

2 that I had to do there that I couldn't do  
3 from my house. So depending on the task  
4 it could be an hour to three the most.

5 Q Am I correct in saying that  
6 when you worked on Sunday you would try  
7 to work from home as much as possible?

8 A Absolutely.

9 Q Am I correct in saying that  
10 on Saturdays and Sundays you wanted to  
11 spend as much time as you could with your  
12 family?

13 A Yeah, you know, absolutely I  
14 would want to spend as much time with the  
15 family, but my wife was understanding in,  
16 you know, work and being okay with that  
17 if it pulled me away from the kids.

18 Q And she still is  
19 understanding?

20 A Off the record.

21 Q Did you ever meet with a  
22 chamber of commerce about marketing for  
23 MLD?

24 A I did not.

25 Q Did you ever meet with other

1 121

2 professionals, attorneys, real estate  
3 brokers, accountants concerning marketing  
4 for MLD?

5 A I did not.

6 Q Did you ever have seminars  
7 for any groups, other than church groups  
8 as we have discussed before, for MLD?

9 A I did not. I don't even know  
10 if we did any trip seminars during our  
11 tenure at MLD.

12 MR. REILLY: That was my  
13 objection to form on that last  
14 question.

15 Q Other than possible church  
16 seminars, you don't recall any other  
17 seminars?

18 A Correct.

19 Q What percentage of your leads  
20 were generated from your advertisements?

21 A Almost all of them, 95,  
22 97 percent.

23 Q Where did the rest come from?

24 A If, like, we were doing a  
25 loan for a friend or family.

122

Q Were there times you would be  
at a restaurant with your family and you  
had to do work related to MLD?

A Yes.

MR. REILLY: Objection to  
form.

Q That might be in the form of  
an e-mail or a phone call, correct?

A Yes.

Q Was there any slow season for  
MLD?

A No, it was more market driven  
kind of where rates were and things like  
that since we did a lot more refi.

As far as purchase business,  
we didn't really rely too heavily on,  
like, the buying season, which would be,  
like, spring and summer.

Q Did you set an alarm to wake  
up when you worked at MLD?

A Usually, yes.

Q What time was the alarm set  
for?

A 5:45.

1

123

2 Q How often was your first stop  
3 the gym?

4 A Usually it was.

5 Q Do you remember the alarm  
6 code?

7 A For?

8 Q For MLD.

9 A No, it changed so many times.  
10 They had an issue with, like, homeless  
11 people coming in and companies coming in  
12 and out and changing, so it was probably  
13 five or ten different ones, and Contour's  
14 in the same building, so I wouldn't be  
15 able to differentiate anyway.

16 Q Aside from phone calls and  
17 e-mails, did you ever text with potential  
18 customers?

19 A Yes.

20 Q Is that something that you  
21 would do when you were out of the office?

22 MR. REILLY: Objection.

23 Form.

24 A Yes, I would. I would also  
25 do it in the office if the customer

1 124

2 preferred to communicate it that way.

3 Q Was that your own cell phone  
4 or was that an MLD cell phone?

5 A Mine.

6 Q What vacations did you take  
7 while you were at MLD?

8 MR. REILLY: Objection to  
9 form.

10 A I believe that one year I  
11 went to Florida over April break.

12 Q What was the duration of time  
13 that you worked at MLD?

14 A December of 2013 through  
15 December of 2015.

16 Q Other than that one week in  
17 Florida, do you recall any other  
18 vacations?

19 MR. REILLY: Objection to  
20 form.

21 A I think I went to the  
22 Atlantis in the Bahamas with my wife for  
23 a weekend during that period of time.  
24 And she's from upstate New York. I  
25 believe we went to her dad's place over